IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1731 OF 2002

Shree Ram Bhadekaru Sangh & Ors. ...Petitioners.
Vs.
The State of Maharashtra & Ors. ...Respondents.

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Mr. S. M. Gorwadkar for the Petitioners.
Mr. C.R. Sonawane, AGP for Respondent 1, 4, 5 & 7.
Mr. R.M. Pethe i/b. Mr. R.G. Ketkar for Respondent Nos.2 and 3.

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CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

February 2, 2006.

P.C.

The Petitioners, who claim to be tenants in the building standing on the property in respect of which Respondent No.2 initiated proceedings of acquisition, have moved this Court for the reliefs as prayed for. The award was passed on 5th November 2001. The Petitioners admittedly are not owners of the land. The State Government has formulated a scheme dated 7th April 1994 taking into consideration that many local bodies are not in a position to acquire and develop the lands reserved in terms of the Development Plan. In so far as the commercial zone is concerned, the Super Market for which the present land is reserved, the development can be by the Municipal Corporation or the land

owner. If the land owner wants to develop the reservation, he has to comply with the directions. The land owner, in the instant case, had earlier applied for development which application was rejected by the Respondent-Corporation. Subsequent thereto proceedings for acquisition have commenced, culminating into an award. When the matter came up before this Court on 21st March 2002, status quo order was directed to be maintained. That has been continued. The petition itself was not admitted.

On behalf of the Petitioners, the Learned Counsel submits that they have now come to know that the Corporation has passed a resolution permitting the development of the land apart from the owners by others, including private parties. Even if that be the position, in the instant case, an award has already been passed. The Petitioners who are tenants of the building standing on the plot which has been acquired, at the highest can claim and if they are entitled to, interest in the compensation. They have no other interest including a right to challenge the proceedings for acquisition. In these circumstances, it will not be possible for us to entertain the present petition. Apart from that on behalf of the Corporation, the Learned Counsel invites our attention to the order

passed in Writ Petition No.398 of 2003 on 18th October 2004 which relied on another order dated 19th July 2004 in Writ Petition 6446 of 2001. The Corporation has not yet taken possession. In that order, the Learned Bench of this Court was pleased to make the following observations:

> "In view thereof, we dispose of this petition with a direction that the Petitioner shall be at liberty to approach the Respondent No.3 Corporation with a request to continue his possession till factual construction of market starts along with a request to accommodate him, if possible."

It would be open to the Petitioners herein, to make a similar request and if such a request is made within two weeks from today, Respondent No.3 to consider the same according to law. With the above observations, the petition stands disposed of.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)